

Received**Vickers Charles R. (DNREC)**

MAY 05 2006

From: Jody Hudson [mrjodyhudson@comcast.net]**Sent:** Thursday, May 04, 2006 11:06 AM**To:** Vickers Charles R. (DNREC); Hughes John A. (DNREC)**Cc:** Rich Collins; Craig & Liz Hudson**Subject:** Please Abandon this added Taking of Lands via the proposed State Resource Areas and Natural Areas mapsDivision of Parks & Recreation
Directors Office**Mr. John Hughes Secretary DNREC and Mr. Charles Vickers Division of Parks and Recreation****DNREC****89 Kings Highway****Dover, DE 19901****RE: State Resource Area Maps Comments; submitted with the intent that it be considered as part of the hearing record for The Open Space Council's and/or DNREC's adoption of the proposed State Resource Areas and Natural Areas maps.****Dear Mr. Hughes and Mr. Vickers:**

I start this pleading, on behalf of land owners, such as myself family and clients and friends with a quote from Secretary Hughes: "As head of DNREC, I believe that citizens, industry, business and conservationists can - and should - continue to work together as partners and stewards of Delaware's precious and irreplaceable natural resources. Together, we can support and protect our environment, while allowing for continued economic growth and "smart" development in our state. We all have the same goal: to do all we can to ensure that Delaware's magnificent natural heritage endures." Underlining is mine!

It has come to my attention a few minutes ago, and today is an exceedingly busy day for me, that there are nearly 300,000 acres DNREC is currently including on "Natural Resource Maps" or "State Resource Area Maps" for the purpose of imposing severe development restrictions. This effective "Taking" of land is based upon law that only applies to land the state intends to purchase. DNREC doesn't agree with the facts of the law and supposes that said law allows the agency to do as it will with any lands of any owners, so it seems!

My family; Craig and Dad in particular and myself and my sister as well, support the Sussex County Land Trust and the extensive partnerships that have been created to purchase land for preservation. As I write this there is a move afoot to purchase ALL the remaining farm land in Sussex County, with funds from an increase in the state real estate transfer tax.

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The interactive maps located at <http://www.dnrec.delaware.gov/GI/GISRAMaps.htm> indicate that the Open Space Council and/or DNREC propose to identify all, or a portion, of nearly all of our family and personal property as a State Resource Area and/or a Natural Area. This designation may be new or may be a continuation of what was already in previous maps. It is my understanding that the legal authority cited by the Open Space Council and/or DNREC for the adoption of amended maps is Title 7 Chapter 75, Delaware Land Protection Act. These comments are based in large part on exactly what authority is provided by that Act. Therefore, it is appropriate to review what the Act actually states.

Section 7502, entitled "Declaration of policy," states in part: "The General Assembly finds that: It is the public policy of the State and its political subdivisions that preservation of open spaces shall be accomplished through the acquisition of interests or rights in real property, or donation of said lands, and that said acquisition constitutes a public purpose for which public funds have been expended or advances and should be continued."

Section 7503, entitled "Purpose" further states in part: "(a) State agencies may acquire any interest in real property for the following purposes, to carry out and expand on the intent of the conservation program described in Volume 65, Chapter 212 of the Laws of Delaware:" "(b) State agencies may acquire property or rights in real property pursuant to this chapter by the use of direct acquisition for cash, by purchase money mortgage, by installment sale or by other methods or incentives as determined by the Secretary after consultation with the Secretary of Finance. State agencies shall not exercise the "right of eminent domain" to carry out the provisions of this chapter."

Section 7504, entitled "Definitions" further states in part: "(8) "Permanent protection" means the acquisition by purchase, gift, grant, bequest, devise or otherwise the fee or any lesser interest, development right, easement, covenant or other contractual right in real property in perpetuity necessary to achieve the purposes of this chapter." "(9) "Project" means the planning for, and the acquisition and development of property, undertaken to achieve the purposes of this chapter."

As owner and/or interested party in numerous parcels and hundreds of acres of property: I have no intention of selling, gifting, granting, bequeathing or otherwise providing any State Agency full and total ownership in all of the properties that are subject to our mutual interest in order to achieve the purposes of Title 7 Chapter 75. That being the case, there is no legal basis provided by Title 7 Chapter 75 for either the Open Space Council and/or DNREC to identify any portion of my lands in the amended maps as State Resource Area and/or Natural Area. Therefore, I specifically request that all indications of State Resource Areas and/or Open Space areas be removed and that this project be abandoned because it represents a taking of private property and placing of such in the public domain; as per the precepts of Communism and Communism has and always will fail, no matter how much duress it places upon the populace and no matter how much power it grants the Secretaries and their minions.

Please allow us, the landowners, to grant and give and purchase and donate lands

as we may, rather than taking them from us by the force of legislation.

Sincerely:

Jody Hudson

CC: Rich Collins of Positive Growth Alliance

CC: Craig Hudson of Hudson Management and ThetaVest and Sussex County Land Trust

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302-542-4242 To best Know the future: Imagine it and... Pray!

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Directors Office**

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